

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SAM TOCCO, individually, and  
as the Trustee of THE SAM TOCCO  
REVOCABLE TRUST dated July 11, 2001,

Plaintiff/Counter-Defendant,

CASE NO. 05-70013

-vs-

PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

SAM ANTHONY TOCCO, and  
KNOLLWOOD MEMORIAL PARK  
CEMETERY ASSOCIATION,

Defendants/Counter-Plaintiffs,

*and*

HYMAN LIPPITT, P.C., JOHN GONWAY,  
and JOSEPH P. ZADA,

Defendants.

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**ORDER (1) STRIKING DEFENDANT ZADA'S OBJECTIONS; (2) ACCEPTING AND  
ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION; AND (3)  
GRANTING IN PART AND DENYING IN PART PLAINTIFFS' MOTION TO COMPEL  
DEPOSITION TESTIMONY AND TO ASSESS COSTS AND ATTORNEY FEES**

The Magistrate Judge issued a Report and Recommendation ("R&R") on April 27, 2006, granting in part and denying in part Plaintiffs' Motion to Compel Deposition Testimony of Joseph P. Zada and to Assess Costs and Attorney Fees. The Magistrate entered an Amended Opinion and Order April 28, 2006, which superceded the April 27, 2006 Opinion and Order. Defendant Joseph P. Zada filed objections to the R&R on May 12, 2006, eleven days after the entry of the Amended R&R. Pursuant to Fed. R. Civ. P. 72(a), Defendant had until May 11,

2006 to file any objections to the Amended R&R.

Accordingly,

**IT IS ORDERED** that Defendant Joseph P. Zada's objections to the R&R are stricken from the record, and Plaintiffs' Motion to Strike is GRANTED.

Furthermore, having read the Magistrate's R&R,

**IT IS ORDERED** that the R&R is adopted and entered as the findings and conclusions of this Court. Plaintiff's Motion to Compel Deposition Testimony of Joseph P. Zada and to Assess Costs and Attorney Fees is GRANTED IN PART, DENIED IN PART.

S/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: May 17, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on May 17, 2006.

S/Jonie Parker

Case Manager